IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLICATION NO.270 OF 2007

M/s.Rajdeep Trading Co.,
through its Proprietor
Mr.Raj Ramniklal Desai : Applicant
(Orig.Plaintiff)

V/s.

M/s.Pratik Sales Corporation & Ors. : Respondents
(Orig.Defendants)

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Mr.P.G.Sarda for the applicant.

Mr.Vinay D. Borwankar for the respondents.

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CORAM : S.A.BOBDE, J.

DATE : OCTOBER 11, 2007.

P.C.

1. This Civil Revision Application is preferred by the plaintiff. The trial Court has set aside the ex parte judgement and decree in his favour. It appears from the order of the trial Court that the trial Court accepted the respondents' case that they were not served by post as alleged by the applicant-plaintiff. The trial Court has observed that the applicant-plaintiff has not controverted the defendants' Written Statement that the registered

letter was not tendered to him. In these circumstances, the trial Court has rightly observed that where the respondents-defendants have denied that they were served as alleged, he had put the matter in issue and, therefore, the applicant ought to have examined the Postman to prove the endorsement. The trial Court has rightly relied on the judgement of this Court in Meghji Kanji Patel v. Kundanmal Chamanlal Mehtani (AIR 1968 Bombay 387).

2. In the result, there is no merit in the Revision Application which is hereby dismissed.

S.A. BOBDE, J.